

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

1999 SEP -7 AM 10:50

1

2 R&G ENGINEERING, INC.,
et al.,

3 Plaintiffs,

4 v. CIVIL NO. 98-1760 (RLA)

5 GREAT AMERICAN INSURANCE CO.,
et al.,

6 Defendants.

CLERK'S OFFICE
U.S. DISTRICT COURT
SAN JUAN, PR

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10 MINUTES OF STATUS/SETTLEMENT CONFERENCE
11 HELD ON SEPTEMBER 2, 1999
12 AND VACATING TRIAL DATE

13 At the STATUS/SETTLEMENT CONFERENCE held on September 2, 1999
14 from 2:40 p.m. until 3:30 p.m. plaintiffs were represented by JOSE
15 E. COLON SANTANA, ESQ. and defendant by WILLIAM GRAFFAM, ESQ.

16 Plaintiffs claim they were never put on notice of any
17 outstanding debt prior to defendant collecting the insurance
18 proceeds. They allege that the statements of account did not
19 reflect that monies were owed nor have any demands for payment ever
20 been made. The pertinent bills of lading apparently have been
21 destroyed due to the time elapsed.

22 Plaintiffs contend that their action is based on a civil
23 contract involving insurance and is therefore, subject to 15-year
24 statute of limitations as provided by the Puerto Rico Civil Code.
25 Plaintiffs' position is that it is a claim based on insurance

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(3)

AB 72
(Rev 8/82)

35 no

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1 proceeds inappropriately retained by the defendant. In the
2 alternative, plaintiffs argue that by having filed a counter-claim
3 defendant waived the time bar defense.
4

5 According to defendant, plaintiffs were aware of the payment
6 of the insurance proceeds since **July 1994** and failed to voice any
7 objection until this case was filed in **June 1998**.

8 Defendant argues this action is one for tortious conversion
9 subject to a one-year statute of limitations and cited Barreto Peat
10 v. Ayala Colon, 896 F.2d 656 (1st Cir. 1990) in support thereof.
11 Further, defendant indicated that the relationship between the
12 parties fall under COGSA which also has a one-year limitations
13 period. In the alternative, defendant argues that § 1910 of the
14 Puerto Rico Commerce Code, which establishes a one-year limitation
15 for actions arising from the delivery of cargo, would also render
16 this action time-barred.
17

18 In sum, defendant contends that this is an action sounding in
19 torts and the period of limitations accrued in **July 1994** when
20 plaintiffs learned about the insurance payment.

21 The parties would like to conclude various depositions prior
22 to submitting the limitations issue for resolution by way of summary
23 judgment.
24
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1 Counsel for defendant advised that the deposition of ROBERTO
2 CAMINO, plaintiffs' representative, had commenced but had to be
3 continued due to the deponent's schedule.
4

5 The parties scheduled the conclusion of the deposition of
6 ROBERTO CAMINO as well as the depositions of PETER MACK and PETER
7 JORDI, plaintiffs' representatives, for **September 23-24, 1999**.

8 The following deadlines were set for submission of the statute
9 of limitations issue in accordance with the procedure set forth in
10 the undersigned's Standing Order:

11 **10/15/99** Deadline for defendant to serve motion.

12 **11/5/99** Deadline for plaintiffs to serve opposition.

13 **11/15/99** Deadline for defendant to serve reply, if warranted.

14 Plaintiffs' motion for summary judgment will be held in
15 abeyance until after resolution of the time-bar defense.
16

17 The TRIAL scheduled for **September 14, 1999** is hereby **CONTINUED**
18 **SINE DIE.**

19 IT IS SO ORDERED. *nd*

20 San Juan, Puerto Rico, this 2 day of September, 1999.



RAYMOND L. ACOSTA
United States District Judge